

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MARIE CARASTRO,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACT. NO. 2:18-cv-800-ECM
)	[wo]
ALABAMA DEPARTMENT OF)	
PUBLIC HEALTH, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Now pending before the Court are the Defendants' motion to dismiss (doc. 19) filed on November 27, 2018, and the Plaintiff's motion for leave to file second amended complaint (doc. 28) filed on April 11, 2019.

The Defendants urge dismissal of the amended complaint on various grounds, and argue that the Court ought not consider some of the arguments made by the Plaintiff in opposition to dismissal because a party cannot amend a complaint through her brief. (Doc. 23 at 3-4). In her motion to amend, the Plaintiff states that she seeks to add claims which arise out of the same facts, but for which she has just received a notice of right to sue. (Doc. 28).

Generally, leave to amend should be freely given when justice so requires. *Fed. R. Civ. P.* 15(a). Given that the Plaintiff apparently contends there are facts which need to be included in her complaint to satisfy deficiencies identified in the

motion to dismiss, and given that she has received a notice of right to sue on related claims, the Court concludes that allowing the Plaintiff to file the amended complaint attached to her motion is consistent with Rule 15 of the Federal Rules of Civil Procedure. Thus, the Court will grant the motion to amend the complaint.

Accordingly, it is hereby

ORDERED that the motion for leave to file second amended complaint (doc. 28) is GRANTED and the Plaintiff shall file the new amended complaint attached to her motion on or before **June 13, 2019**. (Doc. 28-1).

Done this 6th day of June, 2019.

/s/ Emily C. Marks

EMILY C. MARKS

CHIEF UNITED STATES DISTRICT JUDGE